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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,896	08/02/2000	Timothy J. Mousley	PHB 34 , 390	7981
24737	7590	06/29/2004	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			SHAH, CHIRAG G	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
BRIARCLIFF MANOR, NY 10510			2664	8

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/630,896	MOULSLEY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Chirag G Shah	2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 April 2004.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 15-34 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 15-34 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 15, 18-20, 23-25, 28-30, and 33-34 rejected under 35 U.S.C. 102(a) as being anticipated by Cho et al. (WO 0013426).

Referring to claims 15, 20, 25 and 30, Cho et al discloses in the abstract, figure 12 and claims 1-6 of a radio communication system, comprising a primary station (base station) operable (having means) to transmit a random access channel status message (BCCH) indicating an availability of random access channel resources (Base Station generates a broadcast channel frame at predetermined intervals, which includes status information indicating whether channel codes which are changing in real time are occupied or not as disclosed in the abstract and claim 1); a plurality of secondary stations (mobile stations) operable (means for receiving) to receive the random access channel status message (a mobile stations selects an available channel code based on information from the received broadcast frame as disclosed in the abstract and claims 1-3), wherein each secondary station (at least one secondary) is further operable (means for requesting) to request a random access channel based on the random access channel status message (Cho et al further discloses in the abstract and claims 1-3 that upon selecting an available channel code based the received broadcast channel frame, the mobile station generates

a channel assignment request message and transmits the channel assignment request message on a random access channel); and wherein the primary station (Base Station) is further operable (having means) to dynamically allocate bit rates (set a transmission rate) to at least one random access channel in response to at least one request (request by a mobile station) for at least random access channel resource from the plurality of secondary (mobile) stations (Cho et al discloses in the abstract, page 5, lines 5-10, page 10, lines 5-24 along with figures 6 and 12 that upon reception of the channel assignment request message on the random access channel, the base station assigns a channel, set a transmission rate, and transmits the information on a forward access channel) as claim.

Referring to claims, 18, 19, 23, 24, 28, 29, 33 and 34, Cho et al discloses in the abstract, figure 5, 8 and 9 of wherein the random access channel status message is transmitted by the primary station (base station generates a broadcast channel frame, which includes status information indicating whether channel codes which are changing in real time are occupied or not and further more as disclosed in figure 8, the information sent on a BCCH by the base station includes a system parameter, PID, and status information) as a part of a paging indicator channel and an acquisition indicator channel (the frame data of BCCH includes the PID of the mobile station, which implies that the mobile station is paged from the network, the mobile station attempts a channel access and when the mobile station requests the channel assignment for paging, the mobile station NR and AR fields indicating a required assigned band and an additional assigned band respectively are both set to 0 because the mobile station does not know a band for processing traffic, thus indicating that the BCCH is transmitted as a part of paging and a band (rate) acquisition for processing traffic as disclosed in page 11, lines 3-21) as claim.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16, 17, 21, 22, 26, 27, 31, and 32 rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Aftelak et al. (WO 00/07401).

Referring to claims 16, 17, 21, 22, 26, 27, 31, and 32, Cho discloses in the abstract, figures 8, 12, and claims 1-6 of a method characterized by the random access channel status message. Cho fails to disclose of sending a random channel status message indicating which data rates with respect to channel codes and highest data rates available on the random access channel. Aftelak teaches of a communications system wherein base station transmits status information to subscriber units (mobile station). Aftelak discloses on page 8 and 9 of capabilities of the network, where it provides subscriber units where a first channel or cell can support high data rate or low data rate transmission. In addition the status information also provides data rates of multiple capabilities. Thus, indicating the highest data rate available on the random access channel as claim 12. Therefore, it would have been obvious to modify the teachings of Cho to include the teachings of Aftelak in order to provide better user service and reduce channel resource fluctuations in order to efficiently request the rate needed for transmission.

***Response to Arguments***

5. Applicant's arguments filed 4/27/00 have been fully considered but they are not persuasive.

Referring to claims 15, 20, 25, and 30, Applicant argues that Cho et al fails to discloses "wherein said primary station is further operable to dynamically allocate bit rates to at least one random access channel in response to at least one request for at least random access channel resource from said plurality of secondary stations." Examiner disagrees and redirects Applicant's attention to Cho et al, specifically to the abstract and in figures 11 and figure 12 and respective portions of the specification. The abstract clearly discloses that initially the base station generates a BCCH (and transmits at predetermined intervals), which includes status information of whether channel codes are occupied or not; the mobile station selects an available channel for the sole purpose of generating and transmitting a channel assignment **request message on a random access channel; Upon reception of the channel assignment request message on the random access channel, the base station (primary station) ASSIGNS a channel, SETS A TRANSMISSION RATE and transmits the information on a forward access channel.** Thus, indicating that the base station allocates rates to random access channels in response to request for resources from the mobile station. Therefore, Cho et al discloses all the limitations set forth in claims 15, 20, 25, and 30 and thus, the claims respectfully remain rejected.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Any response to this final action should be mailed to:**

**Box AF**  
Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**Or faxed to:**

(703) 305-9051, (for formal communications; please mark "EXPEDITED PROCEDURE")

**Or:**

(703) 305-5403 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag G Shah whose telephone number is 703-305-5639. The examiner can normally be reached on M-F 8:30 to 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 703-305-4366. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cgs  
June 14, 2004

*~pl*  
Ajit Patel  
Primary Examiner